

1 EILEEN M. DECKER
2 United States Attorney
3 PATRICK R. FITZGERALD
4 Assistant United States Attorney
5 Chief, National Security Division
6 JAY H. ROBINSON (Cal. Bar No. 230015)
7 MELANIE SARTORIS (Cal. Bar No. 217560)
8 Assistant United States Attorneys
9 Terrorism and Export Crimes Section
10 1500 United States Courthouse
11 312 North Spring Street
12 Los Angeles, California 90012
13 Telephone: (951) 276-6267
14 (213) 894-5615
15 Facsimile: (951) 276-6202
16 (213) 894-7631
17 E-mail: jay.robinson@usdoj.gov
18 melanie.sartoris@usdoj.gov

19 Attorneys for Plaintiff
20 UNITED STATES OF AMERICA

21 UNITED STATES DISTRICT COURT

22 FOR THE CENTRAL DISTRICT OF CALIFORNIA

23 UNITED STATES OF AMERICA,

24 No. ED CR 16-292-JGB

25 Plaintiff,

26 STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF TRIAL DATE AND
(2) FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
ACT

v.

27 CURRENT TRIAL DATE:
28 November 8, 2016

MARIYA CHERNYKH,
TATIANA FAROOK, and
SYED RAHEEL FAROOK,

Defendants.
[PROPOSED] TRIAL DATE:
March 28, 2017

29 Plaintiff United States of America, by and through its counsel
30 of record, the United States Attorney for the Central District of
31 California and Assistant United States Attorneys Jay H. Robinson and
32 Melanie Sartoris, and defendants MARIYA CHERNYKH ("CHERNYKH"),
33 TATIANA FAROOK, and SYED RAHEEL FAROOK ("defendants"), by and through
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1 their counsel of record, David Kaloyanides, Dyke Huish, and Ron
2 Cordova, respectively, hereby stipulate as follows:

3 1. The Indictment in this case was made public on April 28,
4 2016. Defendants first appeared before a judicial officer of the
5 court in which the charges in this case were pending on April 28,
6 2016. The Speedy Trial Act, 18 U.S.C. § 3161, originally required
7 that the trial commence on or before July 7, 2016.

8 2. On April 28, 2016, the Court set a trial date of June 21,
9 2016, and a status conference date of June 6, 2016.

10 3. The Court has previously continued the trial date in this
11 case from June 21, 2016 to November 8, 2016, and found the interim
12 period to be excluded in computing the time within which the trial
13 must commence, pursuant to the Speedy Trial Act. The Court also
14 continued the status conference from June 6, 2016 to October 31,
15 2016.

16 4. Defendant CHERNYKH was released on bond pending trial in
17 this matter but, following her release, was taken into the custody of
18 the Department of Homeland Security, Immigration and Customs
19 Enforcement. Defendants TATIANA FAROOK and SYED RAHEEL FAROOK are
20 released on bond pending trial. The parties estimate that the trial
21 in this matter will last approximately 6-8 days. All defendants are
22 joined for trial and a severance has not been granted.

23 5. By this stipulation, defendants move to continue the trial
24 date to March 28, 2017 at 9:00 a.m., and the status conference to
25 March 13, 2017 at 2:00 p.m. This is the second request for a
26 continuance.

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1 6. Defendants request the continuance based upon the following
2 facts, which the parties believe demonstrate good cause to support
3 the appropriate findings under the Speedy Trial Act:

4 a. Defendants are charged with a violation of 18 U.S.C.
5 § 371: Conspiracy. In addition, defendant CHERNYKH is charged with
6 violations of 18 U.S.C. § 1546: Fraud and Misuse of Visas, Permits,
7 and Other Documents; 18 U.S.C. § 1621: Perjury; and 18 U.S.C.
8 § 1001(a) (2) : Material False Statements. This case involves a large
9 amount of discovery, which the government estimates to include
10 several thousands of pages of reports of investigation and other
11 documents, and hundreds of hours of audio and/or video recordings
12 constituting at least 4 terabytes of data. Production of discovery
13 is ongoing. The parties reached a stipulation to request a
14 protective order concerning discovery produced in this matter, which
15 the Court approved, and continue to meet and confer about discovery.

16 b. Defense counsel represent that they will not have the
17 time that they believe is necessary to prepare to try this case on
18 the current trial date.

19 c. Specifically, defense counsel for defendant CHERNYKH
20 is presently in trial in People v. Lee, San Bernardino Superior Court
21 Case No. FMB 1400414. This is a special circumstance murder trial,
22 which commenced on September 19, 2016, and is estimated to last until
23 November 17, 2016. He is also scheduled to be in multi-defendant
24 Hobbs Act conspiracy trial starting on December 5, 2016, in United
25 States v. Ausbie, et al., 16-CR-0155-JCM-CWH, in the United States
26 District Court for the District of Nevada. Counsel is also advisory
27 counsel for a pro se defendant in United States v. Vanderveldt, 15-
28 CR-00082-JGB, which is a retaliation against federal law enforcement

1 officer by false claim and obstruction of the administration of the
2 internal revenue code case set for trial on January 10, 2017.
3 Accordingly, defense counsel represents that he will not be available
4 or have the time that he believes is necessary to prepare to try this
5 case on the current trial date.

6 d. Defense counsel for SYED RAHEEL FAROOK is scheduled to
7 be in the Southern District of Texas for a sentencing hearing in
8 United States v. Smith, a multi-defendant case, on November 14, 2016;
9 in a specially set hearing in Imperial County Superior Court on
10 November 15, 2016; and in the Southern District of New York for a
11 sentencing hearing in United States v. Linderman, a multi-defendant
12 case, on November 21, 2016. Counsel is also scheduled to be in the
13 following trials: (1) People v. Sun, Orange County Superior Court,
14 which is set for December 13, 2016, and estimated to last 3-5 days;
15 and (2) People v. Carattini, San Bernardino Superior Court, which is
16 set for January 9, 2017, and estimated to last 6-8 days.
17 Accordingly, defense counsel represents that he will not be available
18 or have the time that he believes is necessary to prepare to try this
19 case on the current trial date.

20 e. Defense counsel for TATIANA FAROOK is scheduled to be
21 in a felony preliminary hearing on November 7, 2016, in People v.
22 Buell, which is expected to involve numerous witnesses and could last
23 for more than two days. If the People of the State of California
24 prevail in the preliminary hearing, the case is expected to proceed
25 at that time without any further waivers of time by defendant. On
26 November 14, 2016, counsel is scheduled to be in Houston, Texas for
27 an evidentiary hearing in a multi-defendant counterfeit and fraud
28 case, United States v. Martin, that involves several out-of-state

1 witnesses. Accordingly, counsel represents that he will not be
2 available or have the time that he believes is necessary to prepare
3 to try this case on the current trial date.

4 f. In light of the foregoing, counsel for defendants also
5 represent that additional time is necessary to confer with
6 defendants, conduct and complete an independent investigation of the
7 case, conduct and complete additional legal research including for
8 potential pre-trial motions, review the discovery and potential
9 evidence in the case, and prepare for trial in the event that a
10 pretrial resolution does not occur. Defense counsel represent that
11 failure to grant the continuance would deny them reasonable time
12 necessary for effective preparation, taking into account the exercise
13 of due diligence.

14 g. Defendants believe that failure to grant the
15 continuance will deny them continuity of counsel and adequate
16 representation.

17 h. The government does not object to the continuance.

18 i. The requested continuance is not based on congestion
19 of the Court's calendar, lack of diligent preparation on the part of
20 the attorney for the government or the defense, or failure on the
21 part of the attorney for the Government to obtain available
22 witnesses.

23 7. For purposes of computing the date under the Speedy Trial
24 Act by which defendant's trial must commence, the parties agree that
25 the time period of November 8, 2016, to March 28, 2017, inclusive,
26 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A),
27 (h)(7)(B)(i), and (h)(7)(B)(iv) because the delay results from a
28 continuance granted by the Court at defendant's request, without

government objection, on the basis of the Court's finding that: (i) the ends of justice served by the continuance outweigh the best interest of the public and defendant in a speedy trial; (ii) failure to grant the continuance would be likely to make a continuation of the proceeding impossible, or result in a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendant continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

8. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO STIPULATED.

EILEEN M. DECKER
United States Attorney

PATRICK R. FITZGERALD
Assistant United States Attorney
Chief, Criminal Division

/s/ Melanie Sartoris
JAY H. ROBINSON
MELANIE SARTORIS
Assistant United States Attorneys

Attorneys for Plaintiff
UNITED STATES OF AMERICA

1 I am Defendant MARIYA CHERNYKH's attorney. I have carefully
2 discussed every part of this stipulation and the continuance of the
3 trial date with my client. I have fully informed my client of her
4 Speedy Trial rights. To my knowledge, my client understands those
5 rights and agrees to waive them. I believe that my client's decision
6 to give up the right to be brought to trial earlier than March 28,
7 2017 is an informed and voluntary one.

8

9 /s/ David Kaloyanides
10 DAVID KALOYANIDES
11 Attorney for Defendant
12 MARIYA CHERNYKH

October 12, 2016

Date

13 I am Defendant TATIANA FAROOK's attorney. I have carefully
14 discussed every part of this stipulation and the continuance of the
15 trial date with my client. I have fully informed my client of her
16 Speedy Trial rights. To my knowledge, my client understands those
17 rights and agrees to waive them. I believe that my client's decision
18 to give up the right to be brought to trial earlier than March 28,
19 2017 is an informed and voluntary one.

20 /s/ Dyke Huish
21 DYKE HUISH
22 Attorney for Defendant
23 TATIANA FAROOK

October 12, 2016

Date

24 I am Defendant SYED RAHEEL FAROOK's attorney. I have carefully
25 discussed every part of this stipulation and the continuance of the
26 trial date with my client. I have fully informed my client of his
27 Speedy Trial rights. To my knowledge, my client understands those
28 rights and agrees to waive them. I believe that my client's decision

1 to give up the right to be brought to trial earlier than March 28,
2 2017 is an informed and voluntary one.

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4 /s/ Ron Cordova
RON CORDOVA
5 Attorney for Defendant
SYED RAHEEL FAROOK

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October 12, 2016
Date